

IME Roundtable via Zoom – Administrative Topics January 26, 2021

Staff Participants: Kristen Baldwin-Boe, L&I Melissa Dunbar, L&I Kelli Fussell, L&I Teri Baughman, L&I Stuart Bammert, L&I Kelli Zimmerman, L&I Tanya Weber, L&I Karen Ahrens, L&I Karen Jost, L&I Sara Nielsen, L&I Nancy Adams, L&I Dane Henegar, ATG Starla Treznoski, L&I LaNae Lien, L&I Gary Kolonja, L&I	Participants: Aimee Borrego Allen Tanner DC Anne McCormack, MD Breck Lebegue, MD Carolyn Logue Cassandra Chelf Chelsea Stockner, Sunrise Craig Smith, MD Dan Farrington, Sunrise Daniel Seltzer, MD Fernando Proano, MD Frederick Montgomery MD Fred Quarnstrom, DDS Ian Bishop, ExamWorks Irene Suver, CSP Jamie Toulou Kathy Smith, Inland Kris Beckman, OMAC	Kristin McCoy, MES Linda Wray, MD Lise Niggemyer, Inland Lynn Dal Santo, CSP Mat Nguyen, Mitchell MCN Michelle Bates Mykala Rubey, ExamWorks Pattie Claxton, OMAC Paula Lantsberger, MD Rachel Faber, CorVel Richard McCollum, MD Steven Elerding, MD Tracy Crnkovich Wendelin Schaefer, MD Wini Hamilton, DC 4 Phone numbers Galaxy A50
---	--	--

Introductions, Safety Message, Agenda Updates:

Kristen briefly discussed zoom meeting etiquette.

Wearing a facemask to help prevent the spread of Covid-19 can present obstacles to communication, a complex transaction that depends on visual and often auditory cues. Some tips to improve communication when wearing a facial covering, be aware if the person you're communicating with is having trouble understanding you, speak up, speak clearly, and turn down background noise, among other things.

IME Program Updates:

Interpreter Scheduling – Karen A.

Karen A. gave a quick update regarding the new Interpreter Scheduling system. The goal of the new system is to provide access to interpreters. There will be a two-step process, the provider will request an interpreter via the online portal along with any requirements, and then the scheduling system will find appropriate interpreters. All providers must use online portal for each interpreter appointment, once it is rolled out. The department will pay the vendor and the vendor will pay the interpreter directly.

The work group is reassessing timeline, reviewing the current work that's been done to build the system, incorporating feedback from end-users received during testing sessions, clarifying the registration requirements for both interpreters and providers, and then will determine a go-live date. The go-live date is expected to be in the spring of this year, 2021. The date will be announced 30 days prior to the system going live. The department will allow providers to use currently approved interpreters for a limited time to ensure a smooth transition.

There is an updated FAQ online. The team is encouraging providers and interpreters to register now at <https://interpreting.works/lni>. If there are any questions, you can contact the workgroup at interpretation@lni.wa.gov.

The team is working with vendor to see about uploading a video and tip sheet on how to register and schedule an interpreter. They are also working on scheduling meetings with groups to show the new system. Interpreting agencies will not be able to use system. This new system is meant for individual interpreters and they will have to register on their own.

IME Fees/Billing Code Increases – Kelli F.

Kelli F. mentioned that the temporary policies have been extended and can be found on the department web site.

The fee schedule has been updated effective October 1, 2020. There were 23 IME fees increased including administrative fees, missed appointments, and multiple examiner fees. The fee updates can be viewed on the department website.

Medical Examiners' Handbook (MEH) Updates/Test Questions – Kristen & Tanya

The MEH is currently being updated. There are meetings scheduled from January through March to review and discuss update suggestions. If you have any edits or suggestions, please send them to Kristen or other L&I contacts. The deadline for suggestions for this year's update will be April 1. The publish date is set for July 2021.

Data Security Breach – Kelli F.

Kelli F. gave a quick reminder about having a fully documented chain of custody for medical records. There was another instance of loss of paper medical records. This is the fourth event in the last 5 years the department has been made aware of. Each instance has been different, however all were dealing with paper records. In this case the records were shipped via Fedex from the employee from one location to another, and there was no tracking. The department was not notified until two weeks after the records were lost. The boxes were later found in a dumpster and returned to an L&I office. There must be a signature required upon receipt when shipping paper records.

Examiner Draft Surveys – Kelli F.

Kelli announced work on an examiner exit survey which was recommended by the 6440 workgroup in order to understand why examiners leave system. A copy of the survey was shared with attendees. If anyone has any feedback, that can be sent to Kelli or Kristen.

We are also working on an examiner retention survey to understand what makes an examiner want to stay. This survey will be sent to current examiners after their renewal application is approved.

The suggestion was made that this retention survey should be done on annual basis instead of every three years. The goal is to get this operationalized first then we can look at the frequency.

IME Steering Committee Update – Karen J.

Karen J. gave a quick update regarding the IME Steering committee. There has been one change to the members, Jim Nylander from Self-Insurance is retiring and LaNae Lien will be acting on his behalf until the position is filled. The group has discussed the payment of MMPI as part of an IME and this will be looked at as part of the fee schedule. There is a workgroup that is working on researching fees so there will be an update at a later meeting. The committee has also discussed the alignment of IME complaints. There are several places within the department that receive IME complaints or feedback. Awareness of this has been raised and it is being looked at now.

Another item discussed is about regarding the organization of claim file in Orion. The claim files are organized by date received at department and there are often a lot of duplicates. This will be looked at as future work. The department is in the midst of a workers' comp modernization project and will be looking at this.

6440 / IME Bill – Workgroup Update – Karen J.

Karen gave an update regarding the 6440 team. The report has been submitted to legislature and includes all of the meeting materials as well as all of the data and comments about the draft reports. The IME representative for this group was Kristin McCoy. There were 25 strategies identified to consider, 18 were recommended, 7 will be considered for future work, and 9 were not recommended.

Nancy gave an update on the business readiness workgroup. They have updated all of the training materials and letters to reflect the changes. There are still some items that are pending due to technology. The training for CMs is complete. With this training there have been a lot of questions coming after the training. Lots of questions from CMs regarding when they can and cannot request an IME. If anything appears odd with referral, you can send Nancy a message.

Kristen gave an update regarding the rules and policy workgroup. The department has to write rules on how to include telemedicine IMEs when appropriate. The CR101 was filed in October. There two policies that will need updated. The temporary policies on how to accommodate, and when to assess no show fee for worker have been extended. There will a WAC stakeholder group for this, similar to the one in 2013. The University of WA (UW) is researching telemedicine that the department will use to inform rule making.

Stuart gave an update on the technology workgroup. There is a lot that changed regarding when an IME can be conducted. The cover letter has been updated with new purpose statements. They anticipate telemedicine will affect the IME scheduling application. Currently CMs list telemedicine in a free text field for special requirements. It's anticipated there will be a specific section for telemedicine. There may also be a need to allow firms to enter an additional address. This will all be dependent on rule writing, so changes will not start until that is complete.

There may also need to be updates in regards to reasonably convenient locations. Currently the scheduling team at the department have data from MPN to show providers that are available in their community. The hope is that this can be made into an automated process for this to check.

The question was asked where a worker can be for a telemedicine exam and if the department has anything regarding the location and it's security for confidentiality, no recording, etc. Workers are approved to do telemedicine exams at their home. The department does not have a specific WAC or

Policy saying where the worker must be for the exam. There is a WAC that does state the exam cannot be recorded or vide taped. This can be taken back to fee schedule staff to see if anything should be added there. The firms and examiners stated this could compromise the validity of IMEs.

Measuring IME Quality/ ONC Update - Tanya

Tanya gave an overview of the ONC Quality Reviews from 2020. There were 846 State Fund reports reviewed and 13 SI reports reviewed. There are currently 154 examiners due to have reports reviewed in 2021, however this will increase as new examiners added. In 2019 131 examiners were reviewed. There was a new data collection project started in the third quarter of 2020. The goal is to include as much data as possible from January 1, 2019 on.

Some quality issues identified include impairment ratings and calculation errors, declining to rate administratively accepted conditions, and not including and/or considering contralateral when appropriate. Other issues found were not answering all the questions asked, a multi-examiner panel but only one physical exam, and adding personal comments. The best practice and department expectation is to have like specialties be in the room at the same time doing the exam, instead of one examiner performing the physical exam and review then the additional examiner(s) come in for a few minutes then leave.

It was noted that regarding contralateral, this is suggested in the 5th edition and is required in 6th. The department cannot require it if it's not required in the 5th edition. The group can go back and review this for any updates.

Updates/Q&A – Scheduling, Claims, Self-Insurance

Scheduling – Stuart

Stuart gave an update on the scheduling stats. The governor's travel advisory did affect referrals for Out of State (OOS). Those referrals through the end of 2020 were canceled and rescheduled. Claim Managers will consider alternatives including conducting IMEs via telemedicine, when appropriate. IMEs that require travel to Washington will not be rescheduled or new ones scheduled through the end of the year or until updates are received from the Governor.

Stuart shared the referral stats. The amount of referrals dropped due to Covid. Referrals were down about 25% over summer. This is usually when Claim Managers start scheduling IMEs again but the increase in referrals has been slow. There are also now changes to when they can schedule an IME. They are averaging about 230 referrals per week right now, still about a 25% drop. About a year ago there were 1800-1900 referrals a month. With the changes on claim floor to when referral can be scheduled, it is unclear on how this will truly impact the amount of referrals. Claim Managers must request a consultation first then then can request IME.

There have been issues with panels getting access to CAC when exams are rescheduled. Stuart will be talking to IT to see about extending access to CAC to 14 days after the last exam takes place. That would allow firms be able to access CAC until the report is due. Currently if a referral is rescheduled CAC is granted for 60 days but that may not be enough time if the exam is scheduled more than 60 days out.

Claims – Nancy

Nancy gave a quick update regarding claims. There is a Covid exposure process when examiners or firm staff test positive for Covid. The department should be notified when exposure is confirmed along with the names and claim numbers of workers and the dates that they were potentially

exposed. No-shows should not be included in this list. The department contacts the workers to let them know of the exposure.

The firms asked if the department will notify them if they have a worker that tests positive for Covid and they recently had an IME. This type of situation has not come up where the worker informs the department that they have Covid and attended IME. Would imagine taking similar steps if this situation occurs.

The Red Text Fix was completed in late October 2020. Claim file organization was part of the legislative recommendations and they are seeking input from the panels regarding this.

SI – Kelli

Kelli Z. gave a quick update regarding SI. They just completed some update training for over 500 external customers. The update training is for the SI community. They had claim managers, vocational counselors, and attorneys for the SI community attend. They did discuss 6440 a bit during the training.

IME Coalition Discussion Topics:

Covid Vaccinations for IME Providers

Kelli started the discussion regarding 10 of the 13 topics sent by the Coalition.

DOH sent out a guidance summary which provides vaccine prioritization guidance. The department will refer examiners to the DOH guidance as they are responsible for this process.

PPE Needs

Personal protective Equipment needs were listed as a discussion topic with no other details. The question was if the department can help firms get in touch with state or federal purchasing programs. Prices are very high for N95 masks. The department is not able to direct firms to specific programs.

It was noted that sometimes examiners see OMD opinion included in records, is this admissible for examiners to bring up? Dane said generally that is not going to be admissible. They would probably have to get it in by the OMD consultant that gave the opinion. If the examiner thinks it's valuable to their opinion they can mention it.

Observer Policies During Covid

WAC 296-23-362 says the worker has the right to bring an adult friend or family member to their IME except for mental health IMEs. The expectation is that the firms support any worker that requests an observer during a non-mental health IME. They must also refrain from any reference, in written or spoken communication with workers, to put limitations on the right to having a companion during IMEs. Firms may ask workers in advance so they can make any necessary accommodations. If they cannot accommodate then the exam should be rescheduled. Some firms noted that they do not have space to allow for social distancing when conducting a multi examiner exam when a worker brings a companion.

Telemedicine Training for IME Providers

L&I does not have a requirement but DOH has a requirement for licensing. Providers should refer to the DOH web site for information regarding telemedicine training.

Fee Schedule Related Topics

The Healthcare Policy & Payment Methods (HPPM) Unit is facilitating a review of the current IME fee schedule. There is an internal workgroup through HPPM. Their first step is to develop the project scope.

There have been two meetings held to date. Members of the workgroup include staff from HPPM unit responsible for payment policies, Kristen, Nancy, Stuart, Kelli F., Kelli Z. Planned work includes a comprehensive review of the current fee schedule and research into other states paying practices.

They found a Rand report from CA that is about 2yrs old. If firms have any fee information or research they are willing to share, it would be helpful. Someone suggested that the group should be looking at what is expected from those other states for IMEs, not just the fee paid from other states/payers.

Some items that should be reviewed were fee increases for larger files, also no show fees for large claim files. Someone suggested a fee increase for occupational disease reports as they ask for current medical literature references.

Video/Audio Recording of IMEs 5102 Bill

The bill 5102 bill was introduced into this legislature session. The department received a list of all 50 states and their rules on audio/video recording of IMEs.

One firm said they believe recording makes the IME invalid. Since the department states this can be an adversarial process, recording can be construed as making it more adversarial. Recordings should have to be conducted by a professional and kept secured as it is very easy to manipulate video and audio.

Several examiners mentioned they have had some experience doing recorded IMEs in Personal Injury (PI) cases. Usually recording is used as a tool to intimidate the examiner so they drop out. If the examiner says it will be allowed as long as it's done professionally, generally they are notified before the exam that it will not be recorded. One examiner shared that when his IMEs have been recorded it has never been used in court. Many examiners expressed concerns and would not want video or images of themselves online after an exam. Another examiner said they would find out ahead of time if the exam would be recorded or not. They used to charge extra but do not do this anymore due to recommendation from a PI attorney. Now when this is done, they would just record the exam on their own device as well.

Someone mentioned that examiners and firms see some workers that should be put on surveillance. Firms and examiners can call and let the CM know if they feel this is necessary however they will probably not hear back on an outcome. Typically when CMs feel that an activity check is needed for a worker a referral is sent to investigation and assigned to an investigator. Sometimes the investigator can't complete an investigation depending on how easy it is to observe a worker at a safe distance. Also, investigations can take several weeks to months depending on what is observed. Sometimes investigations turn into a fraud case and then CMs are not always involved at that point.

IME Complaints

One of the recommendations from the 6440 workgroup was to increase visibility for workers to understand how to submit complaints about their IME. This may potential increase the number of complaints received. The Coalition asked to discuss the oversight process, so this is a good time to review the process.

Kelli presented the current complaint/oversight process. In the current process all complaints are logged and categorized in one of three categories; exam, report, or provider. Complaints are provided a level.

- Level 0 is track and trend where a letter is sent out to the worker acknowledging the complaint was received (this was 14% of all complaints received in the last 3yrs). Complaints about the

outcome of the IME (report) or that are received months after the exam are also given this level.

- Level 1: a letter is sent out to the examiner(s) and the IME firm's Medical Director, and a response is requested back within 30 days. When their response is received it is reviewed and placed back in the examiner's file and a thank you letter is sent to the examiner. If the complaint was from a worker then a copy of the complaint is uploaded to the claim file in Orion. For CM and ONC complaints, the response is sent to the person that originally sent the complaint.

The volume or kind of complaints may trigger a focused review by the IME ONC. Typically if there are 6-8 complaints or more in 1 year or less, or a trend related to a specific complaint could trigger a review. In those cases the IME ONC does her review and brings it to the IME Review Team to determine if any action needs to be taken. The IME Review Team consists of Dr. McCullough, Teri Baughman, Tanya Weber, Kelli Fussell, Kristen Baldwin-Boe, and Dane Henager is an advisor to the team.

When an examiner applies to renew their approval, any complaints over the last three years are looked at. If there are concerns regarding a pattern of complaints the Review Team may suggest a corrective action plan or a 1 year renewal to rectify or re-evaluate the issue or concern in 1 year.

There are specific complaints that are referred to DOH for investigation such as harm/injury, sexually inappropriate conduct, behavior, or language, and substance abuse. ONCs are mandatory reporters per their RN license.

The overall rate of complaints over the last three years is very low. The stats provided do include level 0 complaints. The rate of complaints has been declining over the last 3 years. It was suggested that the department should look at the firm's worker exit survey. Kelli shared that workers have told us they didn't want to complain on their firm exit survey because it might affect their report.

Complaints that are received 4-6 months after the exam are just logged as level 0. Someone asked about due process for examiners. Kristen asked providers what does that look like? Someone suggested it would be better to communicate with examiners before or when they are made temporarily unavailable or removed from the approved list. Some believe the process is very formal and not transparent. Examiners feel like this is a very judicial process that can be scary. It was suggested the department reach out and verify complaints before writing letters.

The question was raised about how long complaints are kept and how long are they used, as some examiners may believe these are being held onto. Right now there is only three years of data. When renewals come up only the last three years are looked at.

Examiners feel there should be a way to make complaints when they have concerns regarding an AP, worker, CM, etc. If examiners have concerns regarding an AP they can be sent to providercomplaint@lni.wa.gov Complaints regarding a CM should be sent to Nancy Adams or the CMs supervisor as this can prompt some real time training for the CM. Complaints regarding a worker can also be sent to Nancy when these come up.

Send agenda topics at least two weeks before the next meeting, which is May 6, 2021. They can be sent to Kelli or Kristen.

NEXT IME ROUND TABLE MEETINGS

Thursday, May 6, 2021 – 9:30 am – noon Zoom Meeting
Thursday, Sept. 09, 2021 – 9:30 am – noon Zoom Meeting
Thursday, Jan. 13, 2022 – 9:30 am – noon Tukwila Service Location